IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

MISCELLANEOUS CIVIL APPLICATION NO. 1004 OF 2006
IN
WRIT PETITION NO. 3526 OF 2006 (DECIDED)

Office Notes, Office Memoranda of Coram appearances, Court's orders or directions and Registrar's orders.	Court's or Judge's Orders

Shri A.C. Dharmadhikari, Advocate for the applicants.

CORAM : B.R. GAVAI, J.
17TH OCTOBER, 2006

By way of present review application, the petitioners seek review of the order passed by this Court dated 22nd August, 2006 in Writ Petition No. 3526 of 2006.

Shri A.C. Dharmadhikari, the learned Counsel appearing on behalf of the applicants submits that the view taken by this Court is without taking into consideration the provisions of Section 2(10) into its correct perspective and, therefore, there is an error apparent on the face of record so as to warrant interference under revisional jurisdiction of this Court.

Sub Section (10) of Section 2 reads thus.

"(10) "person having interest" [includes] -

(a) in the case of a temple, person who is entitled to attend at or is in the habit of attending the performance of worship or service in the temple, or who is

entitled to partake or is in that habit of partaking in the distribution of gifts thereof,

(b) in the case of a math, a disciple of the math or a person of the religious persuasion to which the math belongs,

(c) in the case of a wakf, a person who is entitled to receive any pecuniary or other benefit from the wakf and includes a person who has right to worship or to perform any religious rite in a mosque, idgah, imambara, dargah, maqbara or other religious institution connected with the wakf or to participate in any religious or charitable institution under the wakf,

(d) in the case of a society registered under the Societies Registration Act, XXI 1860, any member of such society, and

(e) in the case of any other public trust [any trustee or beneficiary].”

He further submits that the judgment which was cited by the learned Counsel for the petitioner in the case of Dinkar Krishnarao Mamilwar and others .v. Charity Commissioner, Mah. State, Bombay and others (reported in 1993 BCJ 428) has also not been correctly considered by this Court.

While considering the claim in the writ petition, this Court found that the claim of the petitioners was that the amount which was paid by them was towards membership fees. This Court has also

relied on the judgment in the case of Suresh Hiralal Shah .v. Shree Nmahabir Swami Digamber Jain Mandir Trust (reported in 2001(3) Mh.L.J., 147) in which the Court had allowed the petition of identically situated person.

The perusal of the judgment in the case of Dinkar .v. Charity Commissioner would also reveal that the said judgment does not consider the merit of Section 2(1)(e) of the Bombay Public Trust Act and in that view of the matter, no error apparent on the face on record can also be found. In the review jurisdiction of this Court, this Court would exercise the powers of review only when the error is so glaring that it can be pointed out at a glance. This Court does not exercise the appellate jurisdiction while considering the application for review.

In that view of the matter, I find that no case for review is made out to review the order of which the review is sought. Hence, rejected.

JUDGE

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